

Implementing Equal Justice for Parents in Washington: A Dual Approach

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ABSTRACT

National research studies of dependent child cases have concluded that while the parties should have adequate legal representation, many do not. The lack of adequate parents' representation in a large number of cases is especially troubling in light of the fact that "the interest of the parents in their relationship with their children is sufficiently fundamental to come within the finite class of liberty interests protected by the 14th Amendment."¹ In 1998, an American Bar Association study noted that indigent parents are particularly disadvantaged in these cases because most have low levels of education, are not familiar with the procedures of the state child welfare agency, are not comfortable in court, and thus need active and competent attorneys.² Similarly, a 1998 National Council of Juvenile and Family Court Judges study reported that in the vast majority of states surveyed, the quality of representation of parents was identified as an area needing improvement.³

In 1999, to address concerns about the implementation of parties' representation, the Washington State Legislature requested the Washington State Office of Public Defense (OPD) to develop a cost proposal for

In many states, legal representation for parents of dependent children is inadequate and can be a source of delays in securing permanency for children and unnecessarily protracted court proceedings. Often, such parents also face barriers to accessing services and independent evaluators. These issues are being addressed in the state of Washington through two approaches. The first is a successful enhanced legal representation program that has substantially improved case outcomes. The second is a statewide committee using innovative means to examine systemic responses to the challenges of the Adoption and Safe Families Act.

providing legal representation for indigent parents, guardians, legal custodians, and children in dependency and termination cases. The Legislature specified that the proposal should address increased dependency and

termination filings by the state, and should recommend strategies to ensure an equitable method of paying for indigent defense costs in these cases.

The Washington OPD is a judicial branch agency overseen by an advisory committee of judges, legislators, attorneys, and others with a legislative mandate of implementing the constitutional right to counsel. The OPD analyzes defense issues for the courts and Legislature and pays indigent appellate defense bills, but it is generally not involved in county-funded, trial-level defense. To obtain the information necessary for analyzing parents' representation practices, the OPD:

- Surveyed juvenile courts and public defenders statewide;
- Observed dependency hearings in eight different counties;
- Obtained information regarding the per-case cost of dependency and termination defense

Justice Bobbe J. Bridge became a Justice of the Washington Supreme Court in January 2000. As a King County Superior Court Judge from 1990 to 2000, Justice Bridge presided over hundreds of dependency and termination cases. She has participated as chair or member of many state committees that have improved the administration of justice for children and families.

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from the counties and the state's per-case cost of agency representation from the Washington Attorney General's Office (AG);

- Worked with a stakeholders' group of defense attorneys, judges, and guardians *ad litem*; and
- Interviewed numerous individuals regarding parents' representation issues.

In its report to the Legislature, the OPD concluded that:

Juvenile dependency and termination case funding is in crisis. While...parents are afforded competent representation in some counties, in others it appears that caseloads are so high and pay so low that effective representation is not available. . . . The state appropriately has dedicated very substantial DSHS (Department of Social and Health Services) and AG funding to these important cases, but parents'...ability to respond is dwarfed by their relatively small resources.⁴

The study found that in 1998, the state spent on average nearly *three times* as much per agency attorney representation than county-funded parents' attorneys were paid per representation. The gap widened in 1999 when the Legislature appropriated an 18% increase to the AG's Office to accelerate termination case filings in order to fulfill new Adoption and Safe Families Act (ASFA) requirements.⁵

The OPD reported other equal justice problem areas including:

- High—often very high—parents' attorney caseloads (In some counties, caseloads ranged up to 275 per attorney);
- Substandard representation by many parents' attorneys;
- Parents' lack of access to social workers or investigators;
- Most experts and evaluators used in dependency and termination cases were selected and paid by the state;⁶
- A lack of comprehensive training or statewide

support for parents' attorneys comparable to that of agency attorneys; and

- A lack of parents' attorney practice standards.⁷

The representation resource gap also appeared to cause fundamental problems in the resolution of cases. For example, there was a high continuance rate in many courts, frustrating early permanency goals. The report concluded that the inability of parents' attorneys to appear for court hearings due to their high caseloads was a primary cause of court delays.⁸

The unequal provision of representation in Washington dependency and termination cases may well be one of the primary reasons that family reunifications began decreasing in 1996, the year before ASFA passed, and have annually decreased with each successive year. According to agency reports, Washington's reunification rate is now almost 30% lower than the 1997 level.⁹ During the post-ASFA period, the state has made concerted efforts to file timely terminations and to achieve more guardianships and adoptions—all of which have increased, in accordance with the intent of ASFA.

Since the OPD report, the number of children legally free remains high.¹⁰ One concern expressed by Washington judges and others involved in the child welfare system is that with the implementation of ASFA's new shorter timelines, a significant percentage of parents who have the motivation and potential to improve their parenting skills and lifestyles may be falling by the wayside due to the now-accelerated system's failure to provide them with a true opportunity to meaningfully participate in their cases. This would be an ironic consequence of ASFA, and contrary to its intent. As noted in the Act's legislative history:

The bipartisan group that wrote this legislation recognized the importance and essential fairness of the reasonable efforts criterion. What is needed is not a wholesale reversal of the reasonable efforts or of the view that government has a responsibility to help troubled families solve the problems that lead to child abuse and neglect. The Federal government now spends well over \$4.5 billion helping these families and their children and the money is well spent.¹¹

Improved Parents' Representation Pilot Program

Following the 1999 report, Washington OPD sought a legislative appropriation to create an innovative, enhanced representation pilot program in two juvenile courts. The Legislature funded the pilot program with a \$500,000 appropriation to supplement existing county funding. The objectives of the enhanced representation pilot were to:

- Provide better representation to parents: Attorneys who will communicate regularly with their clients, provide them with meaningful legal counseling and advice, and properly prepare their cases for court hearings and negotiations.
- Decrease the number of court delays caused by overburdened parents' attorneys: Reduce parents' attorneys' caseloads to manageable levels, and require them to refrain from requesting continuances based on their unavailability for court hearings due to over-scheduling.
- Increase compensation for parents' attorneys: Raise the payment level per case to an amount more equal to the funding provided to the state for initiating and pursuing dependency and termination cases.

Major Steps Taken to Implement the Pilot Program

Washington counties provide publicly-funded parents' attorneys in a variety of different ways. Methods of providing defense representation include:

- Public defender office representation in urban areas;
- Private attorney representation funded by county contracts for all types of public defense including dependency and termination cases in some areas;
- Private attorney representation pursuant to specific parents' attorneys' county-funded contracts in other areas; and
- In some counties, non-contractual appointments of attorneys whose names appear on a court list.

The legislation authorizing the pilot program specified that it be held in both eastern and western Washington juvenile courts. To maximize the replicability of the program, two sites were selected that provided attorney representation in different ways and to different populations. Benton-Franklin Juvenile Court in rural eastern Washington delivered parents' representation through part-time contracts with four parents' attorneys. Pierce County Juvenile Court in urban western Washington had a public defender's office with one supervisor and four full-time parents' attorneys.¹²

For purposes of the pilot, additional attorneys were hired to represent parents in each juvenile court, taking into account the staffing levels of the assistant attorneys general representing the agency in the two juvenile courts.¹³ Two half-time attorneys were added in the Benton-Franklin Juvenile Court, and two full-time attorneys were added in the Pierce County Juvenile Court.¹⁴ Adding new attorneys allowed a substantial parents' attorney caseload reduction in each court, which was necessary in order to meet the legislation's maximum of 90 cases per full-time caseload and 45 cases per half-time caseload.

Selecting and training the attorneys who would participate in the pilot program was a critical step. In both pilot counties, the original dependency and termination attorneys who were representing parents were responsible and caring, but overburdened by excessive caseloads. Since the program provided for vital *enhancements* to improve parents' representation, the attorneys involved needed to combine good basic skills, dedication, and experience. To add new attorneys who were experienced and committed to the project, Pierce County Department of Assigned Counsel used its established process for hiring additional staff. In Benton-Franklin County Juvenile Court, a formal, competitive contracting process was implemented, with attorneys competing on the basis of their qualifications rather than on a low-bid basis.

Since July 2000, Washington OPD has provided the pilot attorneys with several training and support opportunities. These have included two pilot program trainings each year and attorney participation in a multi-agency statewide dependent-child conference. Through pilot training discussions, the attorneys gradually developed innovative practice techniques and methods for

improving representation. In addition, the Washington OPD periodically met with the attorneys and the courts as the pilot program continued. Through the oversight of the OPD, the various trainings, communication with each other, and their own diligent efforts, the attorneys have steadily improved the effectiveness of the pilot program.

Each year of the pilot program, the attorneys have signed contracts that require them to implement the enhanced defense standards published in the 1999 cost-proposal report. Monthly documentation submitted by each attorney as a payment prerequisite has created a method for collecting data about the attorneys' practices. This documentation has provided accountability as well as case tracking data.¹⁵ Each case documentation form indicates within general categories how attorney time was spent and whether each of the case's scheduled hearings was held or continued. By February 2002, there were approximately 13,000 documentation forms in the pilot database, providing a detailed record for both courts of all continuance requests and the specific reasons for them, as well as an ongoing profile of the representation activities carried out by pilot attorneys on a daily basis.

Following the lead of the local Attorney General's Office, which has several paralegals assigned to dependency and termination cases, the Pierce County public defender's office chose at the beginning of the program to use pilot funds to add two paralegals to its dependency and termination staff. This has resulted in better investigation and case development. The two new paralegals concentrate their efforts on case preparation. With their assistance, attorneys have been able to increase discovery and the number of documents submitted to the court, dramatically improving the quality of fact-gathering and litigation.

To create more parity of resources between the agency and parents, the legislation provided funds for each pilot attorney to obtain the services of investigators or social workers. In Pierce County, two social workers—one part-time and one full-time—were hired to supplement an existing part-time social worker. Most of the new social workers' hours are devoted to clients whom the attorneys feel need extra investigation services or require additional assistance to understand the system and be able to access services.

In rural Benton-Franklin County, providing this type of support to parents was challenging. Social workers are scarce and the attorneys' individual investigator funds were limited. Eventually, the six pilot attorneys worked out an hourly pay system for investigative services on behalf of parents with a small group of individuals who had been trained by the Benton-Franklin Juvenile Court as guardian *ad litem* volunteers. For the past year, the Benton-Franklin attorneys have obtained the services of these "parent investigators" in the same types of cases as the Pierce County attorneys—those in which motivated parents need extra investigation services or attention in order to participate fully in the case.

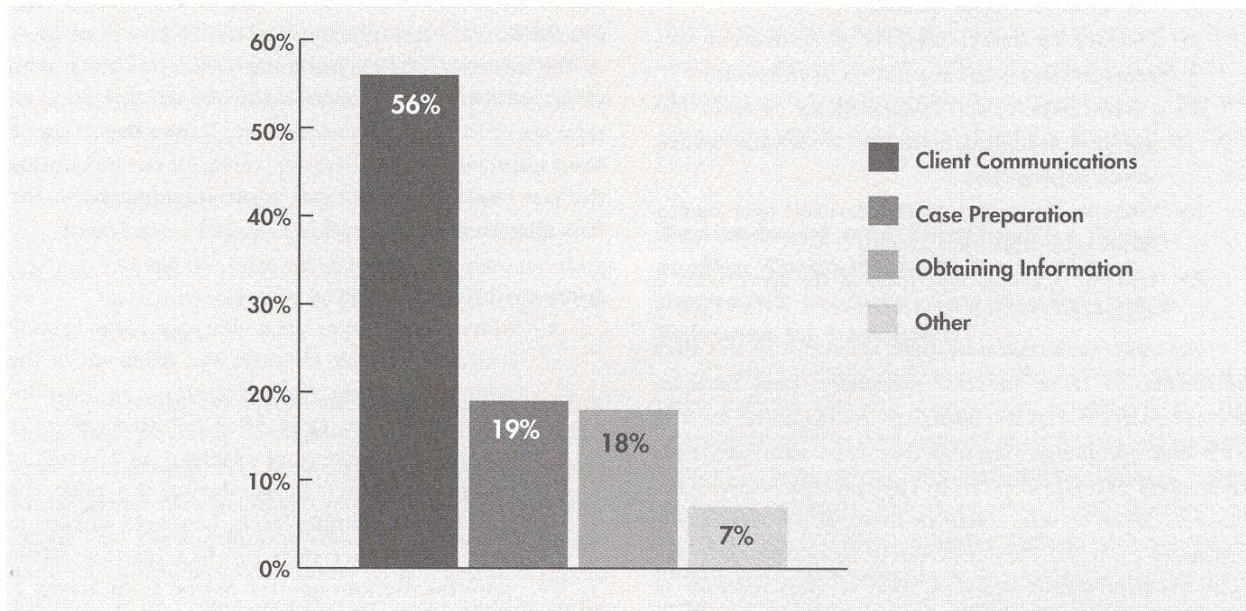
Pilot attorneys in both courts say their ability to obtain social worker/investigator assistance is one of the pilot advocacy resources that most impacts case outcomes. In Benton-Franklin, parent investigators assist in an average of approximately 20% of the pilot cases; in Pierce County, social workers participate in approximately 30% of the pilot cases. (See Figure 1)

Expert evaluator funds are another resource made available to pilot attorneys. In response to the 1999 cost proposal surveys, numerous parents' attorneys reported a need to obtain a defense expert in selected dependency and termination cases, similar to the common practice of appointed prosecution and defense experts in criminal cases. The pilot attorneys, who previously were unused to the availability of defense experts, have increasingly come to rely on them during the pilot program, primarily for those cases in which the attorney deems the evaluation obtained by the agency to be biased or cases involving medical evaluations of injuries that a parent maintains were not the result of abuse. Pilot attorneys report that when parents' expert reports are submitted to the court, they provide the judicial officer with alternative, otherwise unavailable, information about primary issues in individual cases. This information has been relied on by judicial officers in a number of decisions made during the pilot period.

The Pilot Program Attorney's Role

During the ongoing implementation of the program, it has become clear that the role of a successful parents' attorney necessarily involves an emphasis on the "counselor-at-law" aspect of the attorney-client relationship. One of the attorney's first obligations is to

FIGURE 1
Percentage of Social Worker Time Spent on Case Activities
in Pierce County OPD, August 2000-March 2002



make sure the parent-client understands present and future case procedures, what the parent must do to achieve his or her objectives in the case, and what the timelines are. It is clear that parents whose attorneys do not exercise their counselor-at-law duties often have little understanding of what is expected or how to succeed in the case. This critical information cannot be adequately conveyed solely by agency or court employees, though their explanations are helpful. Parents whose children have been taken by the state have a compelling need for a trusted advocate to assist them in coping with the proceedings and realistically assessing how to participate in them, and, no less than any other type of party, in understanding what has transpired in the often stressful circumstances of the courtroom.¹⁶

The following practice guidelines, developed through attorney trainings and discussions through the first year of the pilot, reflect this emphasis on the counselor-at-law aspect of the attorney-client relationship. These guidelines provide an overall framework for the more detailed parents' attorney standards developed by stakeholder attorneys in 1999 as part of Washington OPD's cost proposal.¹⁷

Adequate Representation Practice Guidelines: Duties of Parents' Counsel

- A. Meet and communicate regularly with the parent
 - 1) Describe case procedures and timelines
 - 2) Enable parents to candidly communicate
 - 3) Facilitate agreements by realistically evaluating allegations and evidence with parents
- B. Ensure parents have adequate access to services, including visitation
 - 1) Explain the importance of reasonable efforts services to parent-clients
 - 2) Develop a thorough knowledge of the resources available
 - 3) Explore with parents ways to effectively participate in services
 - 4) Ask parents for feedback if obstacles prevent their participation, and follow up with the agency and in court when appropriate
- C. Prevent continuances and delays within attorney's control
 - 1) Treat dependency and termination cases as the highest priority
 - 2) Avoid over-scheduling whenever possible

- 3) Request unavoidable continuances if they are needed for substantive reasons

D. Prepare cases well

- 1) Conduct high-quality, early-case investigation
- 2) Use discovery appropriately
- 3) Prepare for and participate in settlement conferences and other resolution opportunities
- 4) Obtain experts and evaluators for cases involving psychological, bonding, or similar issues, when appropriate
- 5) Draft well-researched and written trial memoranda and other documents
- 6) Litigate hearings and trials if no agreement is reached

Activities undertaken by pilot attorneys reflect their adherence to these practice guidelines. Pilot database records indicate that the attorneys are spending most of their time communicating with their clients and preparing their cases. This is in contrast to 1999 parents' attorney survey responses, in which half or more of the responding attorneys reported they only rarely or occasionally met with parents before hearings, filed written motions or briefs, or investigated services issues. (See Figure 2)

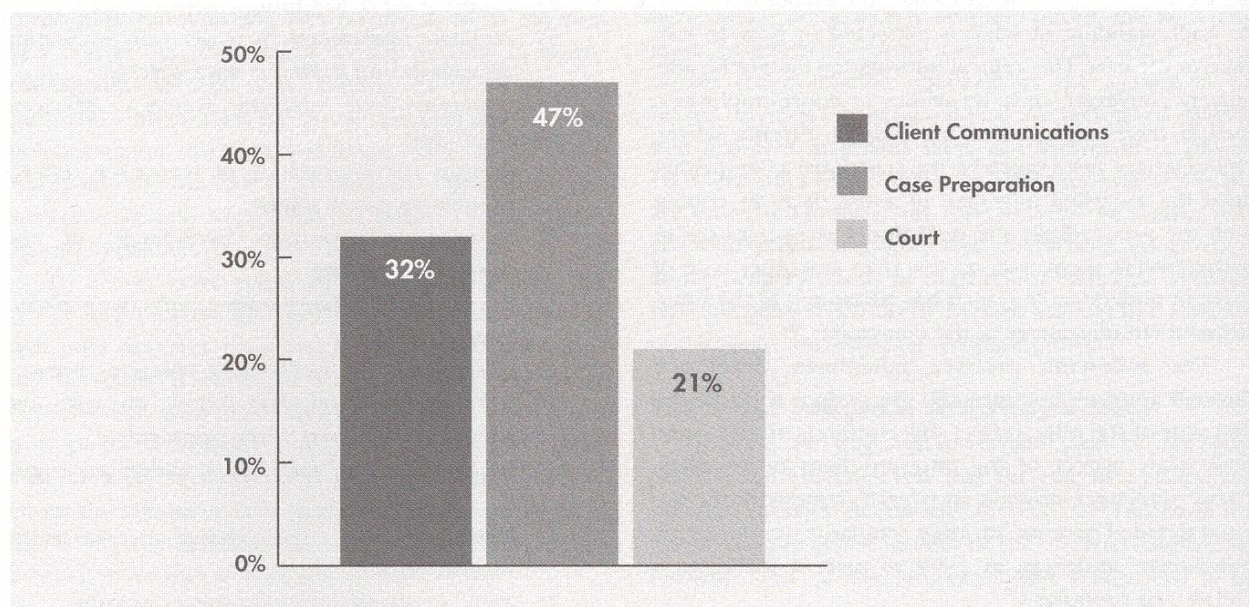
Outcomes

An independent evaluator firm has conducted two preliminary evaluations, one based on documentation from a three-month period and another based on documentation from a fifteen-month period. The three-month evaluation indicated enhanced attorney practices. Most of the attorneys' time was spent communicating with clients and preparing cases, with a smaller portion of time spent in court. The second evaluation found significant improvements in case outcomes for parents during the last four quarters of the pilot as compared to the first quarter of the pilot:¹⁸

Increased Reunifications

- More parents have been able to achieve reunification with their children and dismissal of the dependencies and/or terminations as the pilot has progressed. Even after adjustments were made to an increasing caseload as a result of additional agency filings during the pilot, the number of reunifications has held steady at over 50% higher than the first quarter of the pilot for the four-quarter period from March 1, 2001 to February 28, 2002.

FIGURE 2
Percentage of Attorney Time Spent on Case Activities
August 2000-March 2002



Better Termination Outcomes

- In 50% more of the cases resulting in a termination order, parents have obtained visits or periodic correspondence. Most of these orders were agreed—attorneys worked with parents to understand the realities of the case and obtain the best outcome possible, and the state agreed that the parents' proposed arrangements were safe.

Parents' Attorneys Not Causing Case

Resolution Delays Due to High Caseloads

- During the pilot program period, parents' attorneys' over-scheduling caused only 4% of all continuances.

Importantly, the considerable increase in reunifications has primarily occurred in cases in which a dependency order had been entered (rather than from initial shelter care hearings or another early stage), indicating that these reunifications were not based on the state's technical lack of evidence or mistake in filing the petition. In the post-dependency order reunifications (totaling 80% of all pilot reunifications), it appears that parents were successfully able to change their behavior, lifestyles, or situations in order to establish a safe environment for their children. In Washington, dependencies are not dismissed until six months after the child has returned home, increasing the court's confidence in ordering dismissals based on reunifications since each of them involves parents who have been able to maintain the changes they achieved for at least that period of time.¹⁹

Prospects for maintaining the program on a statewide basis at no additional cost to the state seem to be good. With the pilot's more than 50% reunification increase thus far, foster care and other state savings created by enhanced representation potentially can fully offset the cost of the program within a two- or three-year period. *Thus, the enhancement of parents' representation has the potential to save increasing millions in state funding on an annualized basis.*

Unfortunately, due to Washington's severe revenue shortfall in 2002, Governor Gary Locke vetoed the third and final year of funding for the pilot program. The final year is a crucial phase for pilot attorneys to solidify the

program's early results and the pilot courts to implement court-wide continuance reductions (described below). In addition, the pilot program's potential savings and the plans for statewide implementation must be analyzed and refined due to the critical importance of this program to families and all parties involved in these cases. At present, the OPD is putting together a grant/budget priority reallocation program so that the pilot can continue as far as possible through its third year.

Dependency and Termination Equal Justice Committee: A Statewide Approach to Assessing the System's Fairness to Parents

In 2001, Justice Bobbe J. Bridge became chair of a new judicial branch committee requested by the Legislature whose first duty is "to develop criteria for a statewide dependency and termination defense representation program." The Dependency and Termination Equal Justice (DTEJ) Committee includes juvenile court judges and court commissioners, state legislators who serve on children and family services legislative committees, parents' attorneys, agency and other state government representatives, court representatives, and others involved in dependency and termination cases.

Washington's judiciary has a long and active history of addressing problem areas in dependency and termination cases. Among these have been the implementation of several federally-funded Court Improvement Projects, the establishment of drug courts for parents of dependent children in a number of courts, the institutionalization of annual "Reasonable Efforts" symposia for all dependency and termination system participants in each of the six agency regions every year, and the development of resources for children and parents such as a very active CASA program statewide and innovative projects including a "Dependency 101" class for parents held early in their cases in a number of counties.

In addition to planning for the implementation statewide of the pilot-enhanced parents' representation program, the DTEJ Committee is examining aspects of the system that legislators and judges have reported may be hampering equal justice for parents and permanency for children. Questions include whether adequate amounts of visitation are being ordered, whether the

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services of court-ordered experts are being used in ways most productive for assisting the judge in making decisions, and whether there are barriers to parents' ability to access various types of court-ordered services in a timely way. As noted by the National Council of Juvenile and Family Court Judges in 2000:

Judges must use their legal authority to ensure that social and protective services are immediately available to families whose children have been placed at risk of abuse or neglect so that parents have a fair opportunity to become competent and safe caretakers. The services should be easily accessible, adequate, appropriate, and delivered in a culturally competent framework.²⁰

Earlier permanency issues being analyzed by the DTEJ Committee include whether continuances in some courts are delaying parents' ability to make required showings within ASFA deadlines, and whether court delays are preventing earlier resolution of cases as "judges must ensure that their courts provide efficient and timely justice for children and their families."²¹

Because the Committee is examining many major areas, three subcommittees have been appointed. These subcommittees have determined that, in order to create

a complete description of services available in all counties, surveys on topics of critical importance should be circulated to appropriate individuals and organizations statewide. The Washington State Institute of Public Policy, a legislative branch research institute, is redrafting and pilot testing the surveys to ensure they meet accepted academic standards.²²

The parents' access subcommittee is gathering information about the difficulties parents may have accessing court-ordered services. A general survey is being sent to all the county- and state-funded services providers in the state, and a separate, specialized chemical dependency survey is being prepared for all drug and alcohol services providers. In total, surveys have been sent to more than 700 services providers. Subcommittee members wrote the original drafts of these surveys, which cover topics including whether specific services are county or agency-provided, the cost of the court-ordered services, where services are provided, the waiting periods and screening processes involved, and when in the court process they are being ordered.

A second subcommittee is examining the efficient use of expert evaluators and the cost/benefits of the drug courts operating in some Washington counties. The expert evaluator subcommittee devised a survey for all

FIGURE 3
Reasons for Continuances in Pilot Courts
August 2000-March 2002

REASONS FOR CONTINUANCES	NUMBER	PERCENT
Pilot Attorney and Parents		
Pilot Attorney Over-scheduled	45	4%
Parents Didn't Appear	111	9%
State		
AG Over-scheduled	39	3%
DSHS Failure to File Report	116	9%
Failure to Serve Parents	59	5%
Guardian ad Litem		
Failure to File Report	33	3%
Court		
Judge or Court Over-scheduled	247	20%
Other	594	47%
Total	1,244	100%

experts and evaluators that includes:

- Their credentials
- Availability and waiting periods for appointments
- Information they receive before performing an evaluation
- Techniques routinely used in making evaluations
- Length of time to complete evaluations

With this information, the subcommittee will strive to develop budget-neutral, best-practices standards based on the survey results.

A third subcommittee is examining how the legal system can be more efficient in each step of the process. Pilot-program data have provided a detailed record of the number and causes of continuances in the two pilot courts (see Figure 3). Data show that over 40% of the continuances result from over-scheduling and parties not fulfilling responsibilities in a timely way. These two causes stand to be reduced if standards and practices to address them are implemented in dependency and termination courts, and fewer continuances would, in turn, lead to earlier permanency.

The caseload impacts/continuance reduction subcommittee is reviewing the improvements in timeliness achieved in various Washington juvenile courts during the late 1990s with Court Improvement grants. The subcommittee has developed a juvenile court survey for

judicial officers in each county who preside over dependency and termination matters. The survey will gather information including:

- When the courts order specific types of services and evaluations
- The judicial officers' understanding of waiting periods for specific court-ordered services and evaluations
- Appropriate lengths of visitation for children of various ages
- How often specific types of hearings are continued and for what periods of time
- Reasons for continuances
- Which parent services are most and least fulfilled in their counties

Data on continuances produced by the attorney documentation records in Benton-Franklin and Pierce County juvenile courts provide a rich source of information for analyzing continuance patterns (see Figure 4). The subcommittee plans to establish statewide time-frame guidelines to reduce the number of continuances. Model Court guidelines, adaptable to each local court's needs, will be drafted in the effort to reduce avoidable continuances and court delays.

Conclusion

No cases involve more important, life-shaping issues than dependencies and terminations. As established by

FIGURE 4
Pilot Hearings Continued by Hearing Type
August 2000-March 2002

HEARING TYPE	NUMBER OF HEARINGS	PERCENT CONTINUED
Termination	236	36%
Fact Finding	485	28%
Shelter Care	595	23%
All Hearings	6422	16%
Review	2486	14%
Conference	1260	14%
Disposition	117	13%
Motions	1032	10%
Permanency Planning	211	9%

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the Adoption and Safe Families Act and its implementing regulations, reasonable efforts require the state to ensure that troubled families are helped, and that the continuity of family relationships and connections is preserved for children. Developments to ensure that the legal system treats families well and still protects children's safety and well-being, such as the pilot program and the Washington Dependency and Termination Equal Justice Committee's fresh examination of issues, can only come about as a result of collaboration of the courts and all the parties and institutions involved and their willingness to risk open assessment of the system and joint creation of changes. By analyzing, planning, and carrying out necessary improvements together, those who are responsible for implementing the dependent-child justice system can make "best practices" the norm.

The enhanced representation pilot program established by the Washington State Office of Public Defense has demonstrated that a wider percentage of parents can meaningfully participate in their cases if they are

afforded more effective attorney services. Fortuitously, it appears that a resource allocation directed to funding an enhanced representation program can soon result in substantial foster care and related cost offsets.

Parents' access to services and evaluators, an integral aspect of equal justice, is effectively being assessed by all parties and institutions involved in these cases through Washington's DTEJ Committee. By taking advantage of the pilot program's record of decreased defense continuances, the Committee and the pilot courts are addressing other unnecessary, chronic delays in the courts and creating a continuance reduction framework which can be tested in the pilot courts.

Improving equal justice for parents serves our judicial system's value of fairness as well as both the spirit and letter of our dependency and termination laws. Improving equal justice for parents is a necessary step in implementing two primary purposes of the Adoption and Safe Families Act: timely permanence for children and a preference for safe reunifications as the first choice for permanency.

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END NOTES

- 1 *M.L.B. v. S.L.J.*, 519 U.S. 102, 119 (1996), quoting *Santosky v. Kramer*, 455 U.S. 745, 774 (1982).
- 2 Mark Hardin et al., *Representing Clients, State Court Assessments 1995-1998: Dependency Proceedings*, p. 37, ABA Washington, DC, 1999.
- 3 Shirley A. Dobbin et al., "Child Abuse and Neglect Cases: Representation as a Critical Component of Effective Practice." *Technical Assistance Bulletin, Vol. II, No. 2*, March 1998. Reno, NV: National Council of Juvenile and Family Court Judges.
- 4 Washington State Office of Public Defense, "Costs of Defense and Children's Representation in Dependency and Termination Cases," p. 22, Washington State OPD, Olympia, WA, 1999, www.opd.wa.gov/report%202.htm.
- 5 State of Washington Legislative Budget Notes, 1999, Governmental Operations, Office of the Attorney General, <http://leap.leg.wa.gov/leap/budget>.
- 6 One parent's attorney noted in response to a survey question that "(We) need access to independent experts, investigators, social services planners—and available funding to provide these. Currently defense counsel is severely hampered by the necessity of relying on the State's contracted experts and/or employed social workers." Washington State OPD, *supra* note 3, p. 7.
- 7 Parents' attorneys who participated in the 1999 cost proposal's stakeholder group developed a set of standards during the process, which was published as an appendix to the cost proposal report. *Id.*, at Appendix 1.
- 8 Another reason cited as commonly causing continuances included the failure of parties to provide documents before hearings, *Id.*, at 10.
- 9 Washington State Children's Administration, Performance Report 2001, Olympia, WA 2001, <http://www1.dshs.wa.gov/ca/pdf/2001perfrm.pdf>.
- 10 Families for Kids Partnership, *Washington Permanency Report*, at 6, Seattle, WA, 2002.
- 11 105th Congress Report, House of Representatives, 1st Session, 105 77, Section 15, Adoption Promotion Act of 1997.
- 12 In addition to the five public defenders, the Pierce County Department of Assigned Counsel maintains a panel of private attorneys who represent the other parent in conflicts cases. Panel attorneys have not participated in the pilot.
- 13 Prior to the pilot, the situation was that, as the Pierce County Juvenile Court administrator noted during the 1999 cost proposal study, "The system (is) out of balance as DCFS (the agency) and the AAG (Assistant Attorney General) increase staffing levels. The other players, i.e., (the public defender) and GALS do not." Washington State Office of Public Defense, *supra* note 3, at 19.
- 14 A third pilot attorney was added in Pierce County Juvenile Court about halfway through the first year after agency filings increased more than 10%.
- 15 Attorney case documentation requirements have been strictly observed by almost all the pilot attorneys. One, who provided little documentation during the first year, was not offered a second year contract, and on the basis of the attorney's failure to comply with documentation requirements, received little additional pilot compensation under the first year contract.
- 16 Appropriate communication with the client is one of the foundations of an attorney-client relationship. For example, the Washington Rules of Professional Conduct establish that "(a) lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." Washington Court Rules, Rules of Professional Conduct 1.4(b).
- 17 *Supra*, note 7.
- 18 Pre-pilot case information, consisting of a comparison of the outcomes of cases during a pre-pilot period equal to a pilot period, will be obtained for the final evaluation of the pilot.
- 19 A preliminary case filing search conducted by the Administrative Office of the Courts indicates that over the two-year period involved, subsequent dependencies have been filed against very few of the parents who achieved pilot reunifications with the assistance of pilot counsel.
- 20 National Council of Juvenile and Family Court Judges, *ADOPTION AND PERMANENCY GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases*, 2000, Reno, NV, p. 5.
- 21 *Id.*, p. 6.
- 22 The Washington State Institute for Public Policy is also researching how reducing dependency and termination case delays affects foster care. State of Washington 2001-2003 Operating Budget, Section 105(4), Engrossed Substitute Senate Bill 6153.